

AMENDED IN SENATE APRIL 24, 2006

SENATE BILL

No. 1600

Introduced by Senator Kuehl

February 24, 2006

An act to add Sections 8203.1 ~~and 8203.2 to~~, 8203.2, and 8273 to, and to add Article 16.25 (commencing with Section 8375) and Article 19.5 (commencing with Section 8430) to Chapter 2 of Part 6 of, the Education Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1600, as amended, Kuehl. Child care.

Existing law authorizes the Superintendent of Public Instruction to develop standards for the implementation of quality child care programs and to contract for the provision of child care and development services.

This bill would require the Child Development Division of the State Department of Education, on or before July 1, 2008, to provide to the Superintendent of Public Instruction a baseline assessment of the supply and demand for subsidized and unsubsidized child care, as specified. The bill would require the Superintendent, on or before March 1, 2009, and every 2 years thereafter, to make recommendations to the Legislature based on that assessment, as specified.

This bill would require the division to convene a task force, consisting of specified members, to develop and submit to the Legislature, on or before January 1, 2008, a Child Care and Development Workforce Development Plan including recommendations on specified issues. The bill would require the department, on or before January 1, 2012, and under the direction of

the Superintendent, to implement that plan and submit progress reports to the Legislature, as specified. The bill would require the Superintendent to develop a procedure, based on the recommendations of the task force, for assessing the impact of the plan, and update the plan every five years. This bill also would require the Superintendent to develop, based on the recommendations of the task force, a registry of child care and development workers, to be the repository of information about staff stability and professional development, and to be used in the determination of qualifications for enhanced reimbursement if so required.

Existing law requires the Superintendent to establish and assign reimbursement rates for child care providers, as specified, and to adjust the rates each year by certain reimbursement factors.

This bill would require, commencing with July 1, 2007, the cost-of-living adjustment (COLA) for the standard reimbursement rate for child care centers to be equal to the COLA used for revenue limits for kindergarten and grades 1 to 12, inclusive, school districts. The bill also would increase the standard reimbursement rate from July 1, 2007, to July 1, 2011, by $\frac{1}{5}$ of the difference between the amount that would have been paid to the providers from 1986 to 2006, inclusive, had the COLA used been equal to the COLA used for revenue limits for kindergarten and grades 1 to 12, inclusive, school districts and the amount that actually was paid to child care providers from 1986 to 2006, inclusive.

This bill would establish the Partners in Quality Program to govern the establishment of reimbursements for publicly subsidized child care provided as specified. The bill would require the Superintendent to work with a specified task force to develop criteria regarding program quality, to establish a method for assessing whether the criteria are met, to make recommendations to the Legislature for factor increases in reimbursement rates, and to hold at least one public hearing as part of that work. The bill would require the Superintendent to issue contracts to implement the program, as specified. The bill would utilize local Partners in Quality Collaborations to identify the support and assistance participating providers need to meet the quality criteria and to ensure the administration of quality grants to providers as specified. The bill would require collaborations to determine a means of making available the opportunity to participate in the program licensed family child care providers and licensed centers who do not serve subsidized children, as specified. This bill would

require the department to conduct pilot programs with 4 collaborations in certain areas, to assess the pilot programs, and, if it chooses, make recommendations to the Legislature pursuant to those pilot programs.

The bill would require that specified providers receive a base reimbursement rate at the 50th percentile of the regional market rate, as specified, or the minimum base rate, for a specified provider that does not participate in the program. This bill would provide enhanced reimbursement rates to participating providers, as specified, that are not less than the 85th percentile of the regional market rate survey. This bill would prohibit a license-exempt provider from receiving the amount of reimbursement a licensed child care center or licensed family child care center is reimbursed for the same amount and kind of care. The bill would prohibit a license-exempt provider from being reimbursed for more than 6 subsidized children in their care at any one time.

The bill would require the department to identify, in consultation with a specified task force, the means by which a parent can access information about the quality of care provided by providers participating in the program.

Existing law provides employees of public schools with the right to be represented in specific matters, including terms and conditions of employment.

This bill would permit family child care providers, as defined, to choose whether to be represented by a single provider organization, as defined, that would be selected pursuant to a specified petition and election process. The bill would state the intent of the Legislature that the state action exemption to the application of federal and state antitrust laws be fully available to the extent that the activities of the family child care providers and their representatives are authorized under this article.

The bill would permit the chosen provider organization to market family child care programs; operate substitute child care provider pools and offer business development programs for family child care providers; meet with state regulatory agencies, as specified; and engage in various types of negotiation with public and private entities that administer state-funded subsidies for child care services, as specified. The bill would state that the designation of a representative of the family child care providers, as specified, does not prevent the designated provider organization or any other organization or

individual from appearing before, or making proposals to, the department at a public meeting or hearing, or at any other department forum. The bill would prohibit a provider organization from calling a strike and would prohibit the state and provider organizations from interfering with, intimidating, restraining, coercing, or discriminating against any family child care provider because of the exercise of the rights of the family child care provider to join or refuse to join a provider organization.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. It is the intent of the Legislature to enact~~
2 ~~legislation that accomplishes all of the following:~~
3 ~~(a) Reforms the reimbursement system for publicly subsidized~~
4 ~~child care.~~
5 ~~(b) Requires that regular assessments of the supply, demand,~~
6 ~~and quality of subsidized and unsubsidized child care be~~
7 ~~provided to the Legislature.~~
8 ~~(c) Requires the development of a plan that details the~~
9 ~~expectations of, and career advancement for, the child care~~
10 ~~workforce.~~
11 ~~(d) Provides family child care providers with the right to~~
12 ~~participate in collective activities for professional support and~~
13 ~~group benefits, to encourage retention and stability among child~~
14 ~~care providers and to improve the quality of child care.~~
15 ~~SECTION 1. (a) The Legislature finds and declares all of the~~
16 ~~following:~~
17 ~~(1) (A) There is inadequate information about the supply and~~
18 ~~demand of child care for California families making it difficult~~
19 ~~for the Legislature to cost-effectively fund child care programs~~
20 ~~that help working families. The state invests billions of dollars in~~
21 ~~subsidized child care payments for millions of children each year~~
22 ~~and currently these payments are not related to the quality of the~~
23 ~~care children receive.~~
24 ~~(B) In some instances, child care centers and family providers~~
25 ~~that meet greater criteria for the health, safety, and quality of the~~
26 ~~program offered to children in their care may be reimbursed at~~

1 lower rates than those centers or family child care homes that do
2 not.

3 (C) Child care centers required to meet the highest standards
4 are insufficiently funded to stay viable and many child care
5 centers are choosing to forgo their participation in state
6 subsidized child care programs, causing disruption to parents
7 and communities, and further exacerbating the problems many
8 parents have finding affordable and easily accessible child care.

9 (2) There exists a patchwork of education and training
10 programs that do not necessarily reflect the needs of the early
11 care and education workforce and are not coordinated to provide
12 clear expectations for staff competencies and career ladders that
13 result in improved professionalism, retention, and stability in the
14 field.

15 (3) It is necessary to enact legislation to improve access to
16 and stability of quality child care through providing collective
17 activities and other representation rights to family child care
18 providers and to provide quality enhancements in the
19 reimbursement rates received by providers who participate in the
20 subsidy program of the state.

21 (4) There is a need to improve quality of child care and to
22 reduce turnover in the industry that is charged with providing
23 safe and quality care for children in California. The industry
24 suffers from low wages and a lack of benefits for child care
25 providers that is causing high turnover among child care
26 providers. High turnover among providers means that many
27 children are not receiving the type of care they need to be
28 prepared for successful adaptation to school settings.

29 (5) (A) The family child care delivery system, in particular, is
30 fragmented because each provider enters into individual
31 contracts with agencies that administer payments for subsidized
32 child care. This means family child care providers have little
33 formal or collective input into the delivery of services that can
34 improve the system. Family child care providers have no formal
35 representation rights and are not covered by any law that grants
36 them the right to collective action.

37 (B) In order to promote greater efficiency and stability in the
38 child care system, it is necessary to enact legislation to provide
39 family child care providers the right to formal representation and
40 to enter into collective negotiations with public and private

1 *entities that administer public subsidy payments and the right to*
2 *meet and confer over issues of mutual concern with regulatory*
3 *agencies.*

4 *(b) It is the intent of the Legislature to do all of the following:*

5 *(1) Improve the overall provision of child care, so that the*
6 *system is administered efficiently and maximum resources are*
7 *spent on care for children and families.*

8 *(2) Ensure that families that are eligible for subsidized child*
9 *care under the CalWORKs program and other child development*
10 *programs and families who are outside the subsidized child care*
11 *system retain access to child care and that access to high-quality*
12 *child care programs is increased.*

13 *(3) Affirm and strengthen parental choice of child care and the*
14 *infrastructure to support those choices.*

15 *(4) Consider the impact of any reforms on both unsubsidized*
16 *and subsidized child care.*

17 *(5) Guarantee due process protections for families and child*
18 *care providers.*

19 *(6) Ensure that public reimbursements for child care are*
20 *linked to quality criteria; support the sustainability of quality*
21 *child care centers; and transform the quality of the subsidized*
22 *system by developing systems of support and accountability for*
23 *the subsidized child care system, to be fully implemented by*
24 *2012, and to do so only with additional, newly appropriated,*
25 *unrestricted state or federal funds.*

26 *(7) Ensure that any new, unrestricted state or federal funds*
27 *that are appropriated for the subsidized child care system first be*
28 *used to maintain current eligibility funding and then be balanced*
29 *between incrementally increasing the number of subsidies*
30 *available for eligible families and enhancements to quality care*
31 *through the reimbursement rate reform of this act.*

32 *(8) Provide regular assessments to the Legislature of the*
33 *supply, demand, and quality of subsidized and unsubsidized child*
34 *care provided.*

35 *(9) Develop a plan that details the expectations of, and career*
36 *advancement for, the child care workforce.*

37 *(10) Provides family child care providers the right to*
38 *participate in collective activities for purposes of:*

39 *(A) Professional support and group benefits.*

40 *(B) Encouraging retention and stability.*

1 (C) *Providing an opportunity for formal input from family*
2 *child care providers to improve the child care delivery system.*

3 SEC. 2. Section 8203.1 is added to the Education Code, to
4 read:

5 8203.1. (a) On or before July 1, 2008, and every two years
6 thereafter, the Child Development Division of the State
7 Department of Education shall collect the information identified
8 in paragraphs (1) to (9), inclusive, aggregate and analyze the
9 information, and provide to the Superintendent a baseline
10 assessment of the supply and demand for subsidized and
11 unsubsidized child care. The assessment shall include, but not be
12 limited to, all of the following information:

13 (1) The types of child care available from different types of
14 providers.

15 (2) The cost of available child care, according to the regional
16 market rate analysis in use at that time.

17 (3) The needs of families participating in CalWORKs, families
18 who formerly participated in CalWORKs that are still eligible for
19 child care subsidies, and other low-income, working families
20 eligible for child care subsidies who remain on eligibility lists.

21 (4) The needs of working families not eligible for child care
22 subsidies.

23 (5) The availability and types of child care for those facing
24 barriers, including, but not limited to, infants, toddlers, children
25 with disabilities, and families who require nontraditional hours of
26 care.

27 (6) The availability and types of child care for families who
28 may want or need linguistically appropriate child care.

29 (7) Data on the diverse access challenges in rural and urban
30 communities.

31 (8) The impacts of any universal preschool programs on the
32 supply of child care beyond preschool programs and on the
33 demand for, and availability of, full-day, year-round child care.

34 (9) Findings related to the implementation of countywide
35 centralized eligibility lists pursuant to Section 8227.

36 (b) The assessment pursuant to subdivision (a) shall be based
37 on extant data and shall utilize information gathered by resource
38 and referral agencies, local child care planning councils,
39 alternative payment providers, the University of California, and
40 other entities. In addition, the State Department of Social

1 Services is authorized to share information with the division to
2 develop the assessment.

3 (c) The assessment pursuant to subdivision (a) shall identify
4 gaps in information currently collected and include
5 recommendations on the most effective manner of collecting
6 ongoing information to ensure that the required assessments are
7 provided efficiently and consistently and shall identify whether
8 additional resources are required to collect necessary
9 information.

10 (d) The State Department of Education shall regularly review
11 its data collection methodologies to ensure that data are collected
12 in a standardized manner from resource and referral agencies,
13 local child care planning councils, alternative payment providers,
14 and other entities.

15 (e) The assessment pursuant to subdivision (a) shall include a
16 plan for standardizing data collection and collecting data
17 electronically.

18 (f) (1) The State Department of Education shall hold public
19 hearings during the preparation of each assessment pursuant to
20 subdivision (a) to inform interested persons of the issues under
21 consideration, and to receive comment and feedback to be
22 incorporated into the recommendations of the Superintendent
23 pursuant to subdivision (h).

24 (2) The information provided pursuant to this section shall be
25 used to develop the assessments pursuant to subdivisions (a) and
26 (h) and shall be made available to the public.

27 (g) Any funds that are needed to conduct the assessment,
28 including the operation of the advisory group established
29 pursuant to paragraph (2) of subdivision (h) shall be appropriated
30 from the General Fund for this purpose in the annual Budget Act.

31 (h) On or before March 1, 2009, and every two years
32 thereafter, the Superintendent shall use the assessment created
33 pursuant to subdivision (a) to prepare and provide to the
34 Legislature recommendations and an assessment concerning the
35 supply and demand for subsidized and unsubsidized child care.

36 (1) The recommendations shall include multiyear options to
37 incrementally do all of the following:

38 (A) Address the needs of families receiving child care
39 subsidies, including those families participating in CalWORKs.

1 (B) Address the needs of low-income, working families
2 eligible for child care subsidies who remain on eligibility lists.

3 (C) Address the needs of working families not eligible for
4 child care subsidies.

5 (D) Increase access to high-quality care for families facing
6 child care barriers.

7 (E) Increase access to linguistically appropriate child care.

8 (F) Increase access to families in urban and rural areas,
9 including farmworker and agricultural communities.

10 (2) The recommendations shall be developed in consultation
11 with an advisory group that shall assist the Superintendent in
12 developing the recommendations. The advisory group shall
13 include representatives of all of the following:

14 (A) The State Department of Social Services.

15 (B) Parents of children receiving subsidized and unsubsidized
16 child care.

17 (C) Various types of child care providers, including
18 representatives of public and private subsidized and unsubsidized
19 child care, part-day and full-day preschool programs, Head Start,
20 the state preschool program, and center- and family-based child
21 care.

22 (D) Experts in early child care and education, including, but
23 not limited to, administrators, teachers, and academics with
24 expertise in early childhood development and research.

25 (E) Child care support entities, including resource and referral
26 agencies, alternative payment programs, local child care planning
27 councils, and child care advocacy groups.

28 (F) Regional Market Rate Survey researchers, including
29 existing and past researchers.

30 (G) Representatives of county human services agencies.

31 (3) To the extent that the recommendations include the use of
32 new, unrestricted state or federal funds, the recommendations
33 shall describe the manner in which to balance the goals of
34 incrementally increasing access to subsidized care for eligible
35 families and the manner in which to strengthen the quality of care
36 through an improved rate system.

37 SEC. 3. Section 8203.2 is added to the Education Code, to
38 read:

39 8203.2. (a) The Child Development Division of the
40 department, under the direction of the Superintendent, shall

- 1 convene a task force consisting of representatives from each of
2 the following:
- 3 (1) The California Children and Families Commission.
 - 4 (2) The office of the Chancellor of the California Community
5 Colleges.
 - 6 (3) The office of the President of the University of California.
 - 7 (4) The office of the Chancellor of the California State
8 University.
 - 9 (5) The Commission on Teacher Credentialing.
 - 10 (6) The Child Development Division of the State Department
11 of Education.
 - 12 (7) The California Child Care Resource and Referral Network.
 - 13 (8) The State Department of Social Services.
 - 14 (9) Parents of children in subsidized and unsubsidized child
15 care center and family child care settings.
 - 16 (10) Community-based programs that provide child care and
17 development training.
 - 18 (11) Private colleges providing child care and development
19 training.
 - 20 (12) Employee organizations that represent child care workers.
 - 21 *(13) Employee organizations that represent teachers.*
 - 22 ~~(13)~~
 - 23 *(14)* Providers of family child care services, including licensed
24 and license-exempt providers and providers from nonsectarian
25 and faith-based child care programs, and center-based teachers.
 - 26 ~~(14)~~
 - 27 *(15)* Early child care and education experts, including experts
28 on children with special needs.
 - 29 ~~(15)~~
 - 30 *(16)* Child care center administrators, including part-day
31 programs, Head Start, and the state preschool program.
 - 32 ~~(16)~~
 - 33 *(17)* Local child care planning councils.
 - 34 ~~(17)~~
 - 35 *(18)* Local First 5 commissions.
 - 36 ~~(18)~~
 - 37 *(19)* Statewide child development professional associations.
 - 38 *(20) A representative of the California Alternative Payment*
39 *Program Association.*

1 (21) A representative of the County Welfare Directors
2 Association of California.

3 (b) Task force participants shall serve without pay or
4 compensation.

5 (c) The task force shall operate in a manner that encourages
6 input and participation from the public.

7 (d) The task force shall conduct at least one public hearing
8 prior to submitting the plan required pursuant to subdivision (e).

9 (e) On or before January 1, 2008, the task force shall develop
10 and submit to the Legislature and to the Superintendent a Child
11 Care and Development Workforce Development Plan that
12 includes recommendations on all of the following issues:

13 (1) Clear expectations for staff competencies and requirements
14 for each level of regulation for subsidized and unsubsidized child
15 care and development center- and home-based services.

16 (2) Career ladders with links to teacher certification,
17 credentialing, and alternative professional development
18 programs.

19 (3) A method for assessing current training programs offered
20 by public and private entities to ensure access to professional
21 development opportunities for direct care personnel in all settings
22 and from a variety of ethnic and linguistic backgrounds, so that
23 enrollees can meet the requirements of the career ladders.

24 (4) Strategies for recruiting and retaining instructional staff
25 who reflect the ethnic, racial, linguistic, and cultural diversity of
26 California families.

27 (5) A means for providing child care and development staff
28 with information regarding available training supports, including,
29 but not limited to, English-as-a-second-language training
30 opportunities and scholarship programs.

31 (6) Determination of how to develop a prudent and efficient
32 registry of child care and development workers, to be the
33 repository of information about staff stability and professional
34 development, and to be used in the determination of qualification
35 for enhanced reimbursement.

36 (7) Goals for raising qualifications of child care and
37 development providers, and a method to report to policymakers
38 the status of meeting those goals.

39 (8) A procedure for assessing the impact of the plan, and
40 updating the plan, every five years.

(9) Strategies for expanding access and funding for training and staff development for providers of family child care services.

(f) (1) On or before January 1, 2012, the State Department of Education, under the direction of the Superintendent, shall implement the Child Care and Development Workforce Development Plan.

(2) During implementation of the plan pursuant to paragraph (1), the department shall submit an annual progress report to the Legislature.

(3) The department shall submit a progress report to the Legislature every five years after implementation of the plan pursuant to paragraph (1) is completed.

(4) The Superintendent shall develop a procedure, based on the recommendations of the task force, for assessing the impact of the plan, and update the plan every five years.

(5) The Superintendent shall develop, based on the recommendations of the task force, a registry of child care and development workers *and family child care providers*, to be the repository of information about staff stability and professional development, and to be used in the determination of qualifications for enhanced reimbursement if so required *and in the determinations of family child care providers eligible for representation, if necessary*.

(g) To the extent resources are required to implement the plan, funds shall be appropriated in the annual Budget Act for this purpose from the General Fund or from other state or federal revenues appropriated for workforce development.

SEC. 4. Section 8273 is added to the Education Code, to read:

8273. (a) Effective July 1, 2007, and July 1 of each year thereafter, for purposes of this chapter, the cost-of-living adjustment (COLA) to the standard reimbursement rate paid to child care centers that meet the criteria of Title 5 of the California Code of Regulations shall be equal to the COLA used for revenue limits for kindergarten and grades 1 to 12, inclusive, school districts pursuant to subdivision (b) of Section 42238.1.

(b) Effective July 1, 2007, and each year thereafter until July 1, 2011, for purposes of this chapter, the standard reimbursement rate shall be increased above the COLA specified in subdivision (a) by one-fifth of the total amount of the

1 *difference between the amount that would have been paid to the*
2 *child care centers had the standard reimbursement rate been*
3 *adjusted by the COLA used for revenue limits for kindergarten*
4 *and grades 1 to 12, inclusive, school districts pursuant to*
5 *subdivision (b) of Section 42238.1 from 1986 to 2006, inclusive,*
6 *and the standard reimbursement rate paid to child care centers*
7 *from 1986 to 2006, inclusive. This adjustment shall not be*
8 *included in the base rate upon which subdivision (a) is*
9 *calculated.*

10 *SEC. 5. Article 16.25 (commencing with Section 8375) is*
11 *added to Chapter 2 of Part 6 of the Education Code, to read:*

12
13 *Article 16.25. Partners in Quality Program*
14

15 *8375. The purpose of this article is to phase in reforms of the*
16 *reimbursement system for state funded child care, to link*
17 *enhanced reimbursements to quality criteria, and provide*
18 *parents who utilize subsidized and unsubsidized child care with*
19 *information on the quality of care available.*

20 *8376. (a) This article shall be known, and may be cited, as*
21 *the Partners in Quality Program. The Partners in Quality*
22 *Program is hereby established and shall be administered by the*
23 *Superintendent.*

24 *(b) The program shall govern the establishment of*
25 *reimbursements for publicly subsidized child care provided*
26 *through the Alternative Payment Program pursuant to Article 3*
27 *(commencing with Section 8220) and the Child Care for*
28 *Recipients of the CalWORKs Program pursuant to Article 15.5*
29 *(commencing with Section 8350). Child care centers and family*
30 *child care providers may choose to participate in the Partners in*
31 *Quality Program and get support towards meeting improved*
32 *quality criteria and enhanced reimbursements if they do so. This*
33 *section also provides for the Superintendent to contract with*
34 *local Partners In Quality Collaborations to implement the*
35 *program at the county or regional level.*

36 *(c) For purposes of this article, “program” means the*
37 *Partners in Quality Program.*

38 *(d) For purposes of this article, “collaboration” means a*
39 *Partners in Quality Collaboration established pursuant to*
40 *Section 8378.*

1 8377. On or before July 1, 2007, the Superintendent shall
2 convene the task force specified in subdivision (a) of Section
3 8203.2, and in consultation with it, shall do all of the following:

4 (a) Develop criteria for enhancements to reimbursement rates
5 paid to child care centers and family child care providers who
6 choose to participate in the program. The establishment of
7 criteria to measure program quality shall provide graduated
8 opportunities for centers and family providers who choose to
9 participate in the program to satisfy the criteria. The quality
10 criteria may include, but not be limited to:

11 (1) Basic health and safety standards for the child care setting
12 and for the child care staff and providers, which may include use
13 of the trustline registry, established pursuant to Chapter 3.35
14 (commencing with Section 1596.60) of Division 2 of the Health
15 and Safety Code, or licensing and criminal background checks.

16 (2) Professional development, training, education, and related
17 early care and education professional development matrix
18 qualifications.

19 (3) Program quality standards identified in the Early
20 Childhood Environment Rating Scale and the Family Day Care
21 Rating Scale developed by the Frank Porter Graham (FPG)
22 Child Development Institute, at benchmark levels determined
23 appropriate.

24 (4) Quality work environments for staff, such as criteria that
25 promote stability in the workforce, including, but not limited to,
26 the provision of health benefits for direct care staff and their
27 dependents, retirement plans, and leave days.

28 (5) Accommodations for those child care providers for whom
29 English is not the primary language.

30 (b) Establish procedures to use to determine the manner in
31 which to assess whether the participating centers and providers
32 have met the criteria established pursuant to subdivision (a).
33 These procedures shall be uniform across the state and shall be
34 conducted by qualified, reliable assessors. The procedures for
35 assessment shall factor in accommodations for those child care
36 providers for whom English is not the primary language.

37 (c) Make recommendations to the Legislature for factor
38 increases in reimbursement rates for participating child care
39 centers and family providers who meet the criteria established
40 pursuant to subdivision (a). The factor increases shall take into

1 *consideration research that supports the benefits of providing*
2 *meaningful rate differentials in order to support an incremental*
3 *approach to improving quality. A differential rate will be applied*
4 *to participating providers who have been assessed and*
5 *additional rate stipends for those who meet the quality criteria.*
6 *Adjustment factors, to ensure adequate supply of quality*
7 *weekend, evening, and off-hour care and care for special needs*
8 *children, shall also be included in the reimbursement rate*
9 *system, provided that the establishment of those factor increase*
10 *recommendations conforms to other provisions in this chapter*
11 *related to child care furnished at those nonstandard times.*

12 *(d) Conduct at least one public hearing prior to the*
13 *establishment of the quality criteria, assessment procedures, and*
14 *recommendations for enhanced reimbursements required*
15 *pursuant to this section.*

16 *8378. (a) On or before January 31, 2008, subject to*
17 *appropriation of funds for this purpose by the Legislature, the*
18 *Superintendent shall issue contracts to begin implementation of*
19 *the program with the lead agencies selected by local Partners in*
20 *Quality Collaborations.*

21 *(b) A Partners in Quality Collaboration shall be comprised of*
22 *existing public or nonprofit local entities who choose to*
23 *participate in the collaboration, such as, but not limited to,*
24 *resource and referral agencies, local education agencies, local*
25 *planning councils, alternative payment agencies, county welfare*
26 *departments, provider organizations, and institutions of higher*
27 *learning that provide professional development for early care*
28 *and education teachers and staff.*

29 *(c) Each collaboration shall develop a multiyear program to:*

30 *(1) Help child care providers participating in the program*
31 *meet the state quality criteria established by the Superintendent*
32 *pursuant to subdivision (a) of Section 8377 and ensure the*
33 *implementation of the assessment of the criteria established*
34 *pursuant to subdivision (b) of Section 8377.*

35 *(2) Establish a quality improvement plan for each*
36 *participating provider to assist the provider in meeting the*
37 *criteria established pursuant to subdivision (a) of Section 8377.*

38 *(3) Identify or develop a team of assessors who shall become*
39 *reliable in conducting the environmental rating scale, identified*
40 *in paragraph (3) of subdivision (a) of Section 8377, assessment.*

1 (4) *Identify or develop appropriate technical assistance*
2 *resources, including building upon those resources that already*
3 *exist in the county.*

4 (5) *Ensure administration of quality grants to participating*
5 *providers based upon the needs identified for the participating*
6 *providers through their quality improvement plans.*

7 (6) *Create systems to efficiently provide reliable information*
8 *to alternative payment agencies and county welfare departments*
9 *administering state CalWORKs and alternative payment child*
10 *care subsidies regarding the quality rate at which participating*
11 *providers qualify for reimbursement, according to the*
12 *reimbursement factors recommended by the Superintendent*
13 *pursuant to subdivision (c) of Section 8377 and established by*
14 *the Legislature.*

15 (d) *Each collaboration shall identify a lead agency from*
16 *among the partnering entities who will assume primary*
17 *responsibility for contracting with the Superintendent and ensure*
18 *the overall administration of responsibilities of the collaboration.*
19 *The Superintendent shall require, at a minimum, that each*
20 *collaboration:*

21 (1) *Identify the technical assistance and support to be*
22 *provided to program participants to substantially improve*
23 *quality of child care programs.*

24 (2) *Identify which entities will provide technical assistance*
25 *and support.*

26 (3) *Specify the timeframes under which technical assistance*
27 *and support will be provided to participating providers.*

28 (4) *Delineate how the program will be integrated at the local*
29 *level to provide, as much as possible, a seamless integration with*
30 *other, existing early childhood and education programs.*

31 (5) *Factor in accommodations for those child care center staff*
32 *and family providers for whom English is not the primary*
33 *language, who provide care at nontraditional hours, or who have*
34 *other barriers that may preclude them from being able to*
35 *participate in the program or meet the quality criteria.*

36 (6) *Identify the manner in which to work with program*
37 *participants to have initial assessments conducted and the*
38 *manner in which to work with participants to jointly develop*
39 *individual quality improvement plans based on their assessment.*

1 (e) Each county shall be funded for one collaboration, or
2 multiple counties may join together to submit a regional plan.
3 However, the Superintendent shall not contract, pursuant to
4 subdivision (a), with subcounty collaborations unless special
5 circumstances require it and the Superintendent determines that
6 contracting at a subcounty level is necessary to meet the goals of
7 this article.

8 (f) Collaborations also shall determine a means of making
9 available the opportunity to participate in the program to
10 licensed family child care providers and licensed centers who do
11 not serve subsidized children, though some fees may be charged
12 by the collaborations or their participating agencies to the
13 provider based on the cost of assessment and verification of
14 other quality criteria.

15 8379. (a) On or before July 1, 2012, child care centers and
16 family child care homes receiving payments for care provided
17 under the Alternative Payment Program pursuant to Article 3
18 (commencing with Section 8220) and the Child Care for
19 Recipients of the CalWORKs Program pursuant to Article 15.5
20 (commencing with Section 8350) shall receive, at a minimum, a
21 base reimbursement rate that shall be equal to the 50th
22 percentile of the regional market rate for the setting in which the
23 care is provided and the age of the child, according to the
24 regional market rate survey available at that time.

25 (b) Providers who care for children in the Alternative
26 Payment Program pursuant to Article 3 (commencing with
27 Section 8220) and the Child Care for Recipients of the
28 CalWORKs Program pursuant to Article 15.5 (commencing with
29 Section 8350) who choose not to participate in the program shall
30 receive the minimum base reimbursement rate.

31 (c) (1) Enhanced reimbursements above the minimum base
32 rate shall be paid to child care providers who participate in the
33 program according to the reimbursement factors established for
34 meeting quality criteria pursuant to subdivision (c) of Section
35 8377 provided, however, that no licensed child care center or
36 family provider who participates in the program shall receive a
37 reimbursement less than the 85th percentile of the regional
38 market rate survey available at that time.

39 (2) The reimbursement rate for a license-exempt provider
40 shall never exceed the amount that a licensed child care center

1 *or licensed family child care center is reimbursed for the same*
2 *amount and kind of care.*

3 *(3) A license-exempt provider, whether it participates in the*
4 *program or not, shall not be reimbursed for more than six*
5 *subsidized children in its care at any one time.*

6 *8380. (a) Prior to January 1, 2008, and subject to an*
7 *appropriation by the Legislature for purposes of this section, the*
8 *State Department of Education shall conduct pilot programs with*
9 *up to four collaborations to test options for employing quality*
10 *systems to implement subdivision (a) of Section 8378 and*
11 *subdivision (a) of Section 8379, provided that the collaborations*
12 *participating in the pilot program include one each from a rural,*
13 *urban, northern, and southern county or region.*

14 *(b) The department also shall do all of the following:*

15 *(1) Prior to March 1, 2011, conduct an assessment of the pilot*
16 *programs operated pursuant to subdivision (a).*

17 *(2) Prior to January 1, 2012, reconvene the task force*
18 *specified in subdivision (a) of Section 8203.2.*

19 *(3) Present the assessment developed pursuant to paragraph*
20 *(1) to the task force reconvened pursuant to paragraph (2) for*
21 *advice and consultation.*

22 *(4) If it so chooses, make recommendations for changes to the*
23 *program to the Legislature concurrent with the recommendations*
24 *about child care that are required to be made by the*
25 *Superintendent pursuant to subdivision (h) of Section 8203.1.*
26 *However, the department shall conduct at least one public*
27 *hearing prior to making any recommendations for changes to the*
28 *program, pursuant to this paragraph, to the Legislature.*

29 *8381. On or before January 1, 2012, the State Department*
30 *of Education shall identify, in consultation with the task force*
31 *created pursuant to Section 8203.2, the means by which parents*
32 *can access information about the quality of care provided by*
33 *providers participating in the program. Those means may*
34 *include, but not be limited to, utilizing the registry to be created*
35 *under paragraph (5) of subdivisions (f) of Section 8203.2,*
36 *collaborations, or resource and referral agencies, provided that*
37 *adequate funding is made available by the Legislature to do so*
38 *and that the access to information is consistent throughout the*
39 *state and that the information is easy for parents to understand.*

1 *SEC. 5. Article 19.5 (commencing with Section 8430) is*
2 *added to Chapter 2 of Part 6 of the Education Code, to read:*

3
4 *Article 19.5. Family Child Care Provider Representation*
5

6 *8430. The purpose of this article is to authorize family child*
7 *care providers to select a provider organization for specified*
8 *purposes.*

9 *8430.5. It is the intent of the Legislature that the state action*
10 *exemption to the application of federal and state antitrust laws*
11 *be fully available to the extent that the activities of the family*
12 *child care providers and their representatives are authorized*
13 *under this article.*

14 *8431. In this article, the following terms shall have the*
15 *following meanings, unless the context requires otherwise:*

16 (i) *“Family child care provider” or “provider” means either*
17 *of the following:*

18 (1) *An individual who provides care in a family child care*
19 *home and meets state licensing requirements.*

20 (2) *An individual who does both of the following:*

21 (A) *Provides care in a family child care home that is exempt*
22 *from the licensing requirements.*

23 (B) *Participates in a subsidy program provided for in the*
24 *Alternative Payment Program pursuant to Article 3 (commencing*
25 *with Section 8220) or the Child Care for Recipients of the*
26 *CalWORKs Program pursuant to Article 15.5 (commencing with*
27 *Section 8350).*

28 (b) *“Negotiating representative” means the provider*
29 *organization that providers may designate, in accordance with*
30 *the provisions of this article, to be the exclusive representative of*
31 *all providers in the state.*

32 (c) *“Subsidy program” means state funded programs to assist*
33 *families in purchasing child care, including, but not limited to,*
34 *those provided for in Article 3 (commencing with Section 8220)*
35 *and Article 15.5 (commencing with Section 8350).*

36 (d) *“Provider organization” means an organization to which*
37 *both of the following apply:*

38 (1) *Includes family child care providers.*

1 (2) *Has as one of its main purposes the representation of*
2 *family child care providers with public and private entities in the*
3 *state.*

4 8431.5. (a) *On January 1, 2007, family child care providers*
5 *that meet the definition of paragraph (1) of subdivision (a) of*
6 *Section 8431 may form, join, and participate in the activities of*
7 *provider organizations of their own choice for the purpose of*
8 *being represented on all matters specified in Section 8434.5.*

9 (b) *Commencing on the date in which the State Department of*
10 *Education, under the direction of the Superintendent, implements*
11 *the Child Care and Development Workforce Development Plan*
12 *pursuant to subdivision (f) of Section 8203.2, family child care*
13 *providers who meet the definition of paragraph (2) of subdivision*
14 *(a) of Section 8431 may form, join, and participate in the*
15 *activities of provider organizations of their own choice for the*
16 *purposes of being represented on all matters specified in Section*
17 *8434.5.*

18 (c) *A family child care provider may refuse to join or*
19 *participate in the activities of provider organizations.*

20 8432. (a) *Family child care providers may designate, in*
21 *accordance with the provisions of this article, which provider*
22 *organization, if any, shall be the negotiating representative of all*
23 *providers in the state.*

24 (b) *There may be only one statewide unit that includes all*
25 *providers.*

26 (c) *Notwithstanding subdivision (b), commencing on the date*
27 *in which the State Department of Education, under the direction*
28 *of the Superintendent, implements the Child Care and*
29 *Development Workforce Development Plan pursuant to*
30 *subdivision (f) of Section 8203.2, family child care providers who*
31 *meet the requirements of paragraph (2) of subdivision (a) of*
32 *Section 8431 may designate, in accordance with the provisions of*
33 *this article, a negotiating representative of all providers who*
34 *meet the requirements of paragraph (2) of subdivision (a) of*
35 *Section 8431. After that time, there may be only one statewide*
36 *unit selected by family child care providers in accordance with*
37 *the provisions of this article.*

38 8432.5. (a) *If a provider organization petitions the State*
39 *Department of Education to serve as the negotiating*
40 *representative for all family child care providers, with written*

1 *authorization to serve as the negotiating representative from at*
2 *least 30 percent of the total number of providers in the unit as of*
3 *January 1 of the year in which the petition is made, this petition*
4 *is a request for recognition as representative of all providers in*
5 *the unit.*

6 *(b) If more than one provider organization petitions to serve*
7 *as the negotiating representative for all family child care*
8 *providers and each petitioning organization has written*
9 *authorization to serve as the negotiating representative from at*
10 *least 30 percent of the total number of providers in the unit as of*
11 *January 1 of the year in which the petition is filed, an election*
12 *shall be held within 90 days of the day on which the second*
13 *petition is filed in which the providers in the unit shall be offered*
14 *the opportunity to choose between:*

15 *(1) One of the provider organizations as the negotiating*
16 *representative of all providers in the unit.*

17 *(2) No representation.*

18 *(c) If only one provider organization petitions to serve as the*
19 *negotiating representative for all family child care providers*
20 *with written authorization to serve as the negotiating*
21 *representative from at least 30 percent of the total number of*
22 *family child care providers in the unit, pursuant to subdivision*
23 *(a), the petitioning provider organization may request that an*
24 *election be held. The election shall be held and the ballot shall*
25 *offer a choice between:*

26 *(1) Representation by the provider organization.*

27 *(2) No representation.*

28 *(d) The State Department of Education shall designate the*
29 *provider organization described in subdivision (a) as*
30 *representative of all providers in the specified unit if all of the*
31 *following are true:*

32 *(1) No other provider organization petitions to serve as the*
33 *negotiating representative for all family child care providers*
34 *with written authorization to serve as the negotiating*
35 *representative from at least 30 percent of the total number of*
36 *providers in the unit.*

37 *(2) The provider organization does not request an election*
38 *under subdivision (c).*

1 (3) *The provider organization petitions the department with*
2 *written authorization to serve as the negotiating representative*
3 *from the majority of the providers in the unit.*

4 (e) (1) *On receipt of any and all petitions requesting*
5 *recognition under this section, the State Department of*
6 *Education shall request an organization with experience in*
7 *conducting elections for representation to do both of the*
8 *following:*

9 (A) *Verify the number of family child care providers who have*
10 *authorized a provider organization on the date of the petition*
11 *requesting recognition.*

12 (B) *Hold elections under this section, if applicable, and verify*
13 *their results.*

14 (2) *The elections shall be held in a manner assuring the*
15 *secrecy of the ballot.*

16 (3) (A) *The costs of verifying the number of family child care*
17 *providers who have authorized the selection of a provider*
18 *organization shall be paid by the provider organization that*
19 *submits the petition for verification.*

20 (B) (i) *The costs of the election shall be equally shared by*
21 *each provider organization placed on the ballot.*

22 (ii) *If only one provider organization is placed on the ballot,*
23 *the provider organization shall pay all costs of the election.*

24 (4) (A) *Subject to subparagraph (B), in any election held*
25 *under this section, the provider organization that receives the*
26 *largest number of votes cast in a unit shall be designated to be*
27 *the exclusive negotiating representative of all family child care*
28 *providers in the unit.*

29 (B) *If the largest number of votes in the election is cast for the*
30 *choice of no representation, a provider organization shall not be*
31 *designated to represent the unit.*

32 8433. (a) (1) *The initial designation of a representative*
33 *pursuant to subdivision (d) or subparagraph (A) of paragraph*
34 *(4) of subdivision (e) of Section 8432.5 shall be for two or more*
35 *years.*

36 (2) *After this initial period, the designated provider*
37 *organization shall continue to be the representative until another*
38 *election is held.*

39 (b) (1) *An election after the initial period of representation*
40 *may be held if both of the following are true:*

1 (A) *Only after the end of the two-year period.*

2 (B) *If a petition signed by more than 30 percent of the family*
3 *child care providers in the unit is provided to the State*
4 *Department of Education.*

5 (2) *This election shall be held in the same manner as provided*
6 *in Section 8432.5.*

7 (3) *The election shall be held no later than 90 days after the*
8 *signatures on the petition that has been submitted to the State*
9 *Department of Education have been verified pursuant to*
10 *subparagraph (A) of paragraph (1) of subdivision (e) of Section*
11 *8432.5.*

12 8433.5. (a) *A provider organization designated as the*
13 *representative of the family child care providers pursuant to*
14 *subdivision (d) or subparagraph (A) of paragraph (4) of*
15 *subdivision (e) of Section 8432.5 shall be the negotiating*
16 *representative of all providers for purposes designated in Section*
17 *8434.5.*

18 (b) *A provider organization designated as the negotiating*
19 *representative shall represent all family child care providers in*
20 *the unit fairly and without discrimination and without regard to*
21 *whether the providers are members of the provider organization.*

22 (c) (1) *The provider organization, as the representative of*
23 *family child care providers in the unit, may charge a reasonable*
24 *service or representation fee to nonmembers for representing*
25 *them in negotiations, contract administration, and other*
26 *activities pursuant to subdivision (b).*

27 (2) *The service or representation fee may not exceed the*
28 *annual dues of the members of the provider organization.*

29 (3) *The provider organization may negotiate with any public*
30 *or private entity designated in Section 8434.5 to voluntarily*
31 *deduct membership dues and any service fees from payments*
32 *made to providers and remit the fees monthly to the provider*
33 *organization.*

34 8434. A provider organization may not call or direct a strike.

35 8434.5. A provider organization of family child care
36 providers shall have the right to do at least all of the following:

37 (a) *Market family child care programs.*

38 (b) *Operate substitute provider pools and offer business*
39 *development programs for family child care providers, provided*

1 *that pools and programs are not already being operated or*
2 *provided in the community.*

3 *(c) (1) Meet at least once a year with state agencies that*
4 *regulate the licensing of family child care providers, including,*
5 *but not limited to, the State Department of Social Services, to*
6 *identify areas of common concern and to improve consistency in*
7 *enforcement of regulations affecting licensed family child care*
8 *providers.*

9 *(2) On request of the representative of the providers, the*
10 *regulatory agency shall meet and confer with the provider*
11 *organization for the purpose of engaging in joint discussion of*
12 *proposed rules and regulations governing family child care*
13 *providers prior to the promulgation of such rules and*
14 *regulations.*

15 *(3) However, the provider organization and the state*
16 *regulatory agency with which it meets and confers under this*
17 *subdivision may not negotiate any matter that is precluded by*
18 *applicable statutory law.*

19 *(d) (1) On request of the representative of the providers,*
20 *representatives of any public or private entity that administers*
21 *state-funded subsidies for child care services, including, but not*
22 *limited to, the State Department of Education and its contractors,*
23 *shall meet with the provider organization to negotiate a written*
24 *agreement that would apply to all providers who receive*
25 *subsidies from that public or private entity.*

26 *(2) Upon written request by a provider organization to the*
27 *public or private entity, the parties shall meet and bargain in*
28 *good faith over issues that are within the authority of the entity.*
29 *The parties are authorized to negotiate the frequency of and*
30 *processes by which they will undertake ongoing communications.*

31 *(3) To promote efficiency, the parties are authorized, if*
32 *mutually agreed upon by all parties, to negotiate collectively*
33 *with more than one public or private entity that receives or*
34 *administers state-funded public subsidies for child care services*
35 *and to negotiate a written agreement that would apply to all*
36 *parties involved.*

37 *(4) The agreements made under this subdivision may provide*
38 *for binding arbitration of the grievances arising under the*
39 *agreement that the parties have agreed to be subject to*
40 *arbitration. Upon written request of either party, the California*

1 *State Mediation and Conciliation Service shall appoint a*
2 *mediator to assist the parties in reaching an agreement.*

3 *(5) If the terms or conditions agreed on by the parties to the*
4 *negotiations would require modification of existing regulations,*
5 *the terms may not become effective until the modifications have*
6 *been made by the relevant department and have taken effect in*
7 *accordance with Chapter 3.5 (commencing with Section 11340)*
8 *of Part 1 of Division 3 of the Government Code.*

9 *(6) Any agreement negotiated by these parties must be*
10 *submitted to the State Department of Education and shall not*
11 *become effective unless the department certifies that it is in the*
12 *interest of providers and families.*

13 *(7) (A) This subdivision does not authorize negotiations over*
14 *parent fee levels or regulatory procedures that are set by the*
15 *state and does not authorize negotiations over the amount of*
16 *payments or subsidized reimbursement rates or payment levels in*
17 *excess of the amount of state authorized reimbursement rates.*

18 *(B) However, the provider organization can enter into*
19 *agreements with public and private entities designated as lead*
20 *agencies in collaborations authorized in Section 8378 regarding*
21 *family child care provider participation in the Partners in*
22 *Quality Program pursuant to Article 16.25 (commencing with*
23 *Section 8375) and the enhanced reimbursements available to*
24 *participating providers.*

25 *(8) The provider organizations and the public or private*
26 *entities with which it negotiates under this subdivision may not*
27 *negotiate any matter that is precluded by applicable statutory*
28 *law.*

29 *8435. The designation of a representative of the family child*
30 *care providers pursuant to this article does not prevent the*
31 *designated provider organization or any other organization or*
32 *individual from appearing before, or making proposals to, the*
33 *State Department of Education at a public meeting or hearing, or*
34 *at any other department forum.*

35 *8435.5. (a) The state and provider organizations may not*
36 *interfere with, intimidate, restrain, coerce, or discriminate*
37 *against any family child care provider because of the exercise of*
38 *the rights of the family child care provider to join or refuse to*
39 *join a provider organization.*

- 1 **(b)** *For purposes of this section, “state” means all of the*
2 *following:*
3 **(1)** *A unit of the state.*
4 **(2)** *An employee of the state.*
5 **(3)** *A contractor or subcontractor employed by the state.*
6 8436. *This article does not make family child care providers*
7 *employees of the state for any purpose and these providers shall*
8 *remain self-employed for all purposes.*